

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD**

OLNEY CHARTER HIGH SCHOOL,	:	
Petitioner,	:	
	:	
v.	:	CAB Docket No. 2019-05
	:	MOTION FOR EXPEDITED
THE SCHOOL DISTRICT	:	RELIEF
OF PHILADELPHIA,	:	
Respondent.	:	

MEMORANDUM ORDER ON MOTION FOR EXPEDITED RELIEF

In accordance with the Charter School Law¹ (“CSL”), this matter comes before the Pennsylvania State Charter School Appeal Board (“CAB and/or the Board”) on appeal of November 15, 2019 by the Olney Charter High School (“Olney Charter School”), an ASPIRA, Inc. of Pennsylvania School (“ASPIRA”), from a October 17, 2019 decision by The School District of Philadelphia (“District”) to deny Olney Charter School’s renewal request. However, on December 4, 2019, the District filed the instant Motion for Expedited Relief, and on December 12, 2019 Olney Charter School filed its Answer opposing CAB’s granting of the Motion. On December 13, 2019, proposed Petitioner-Intervenor ASPIRA also filed its Opposition to the District’s Motion for Expedited Relief.² On December 20, 2019, the District filed a Reply Brief in Support of the Motion for Expedited Relief and responded to the arguments made by Olney Charter School and ASPIRA. Finally, on December 24, 2019, Olney

¹ Act of June 19, 1997, P.L. 225, No. 22, as amended, 24 P.S. 17-1701-A *et. seq.*

² ASPIRA filed a Petition to Appeal and/or Intervene in the current matter, and the District filed a Motion to Quash. Argument on ASPIRA’s Petition was heard on January 14, 2020, and CAB voted to deny both ASPIRA’s Petition to Appeal and/or Intervene and granted the District’s Motion to Quash. As such, ASPIRA lacked party or intervenor status and did not participate in argument before CAB as it relates to the District’s Motion to Expedite. ASPIRA’s arguments in opposition to the District’s Motion to Expedite were not considered by CAB.

Charter School filed a Surreply Brief in Opposition to the District's Motion for Expedited Relief. Argument on the Motion was heard directly before CAB on January 14, 2020, and CAB voted to deny the District's Motion for Expedited Relief.

The District argues in support of CAB: (1) adopting a proposed schedule to expedite the processing, briefing, and oral arguments in the instant matter so that a decision on appeal will be made by CAB no later than May 19, 2020; and (2) issuing the Opinion and Order prior to June 15, 2020. The District argues that there are facts unique to Olney Charter School that require CAB to adopt the District's proposed time frame to process the pending appeal and render a decision within six months, or by the end of the current 2019-2020 school year, to afford the parties a level of understanding and certainty before the start of the next school year.

In support of its Motion, the District argues that expedited relief is necessary due to the possible implications of a decision by CAB to deny the appeal of Olney Charter School from the nonrenewal decision of the District. Olney Charter School was formed under the District's Renaissance Schools Initiative ("RSI"), a program designed to convert District-operated schools into charter schools to effectuate improvements in academic achievement. RSI schools are governed, operated, and staffed by the charter schools and not by the District.

The District argues that since Olney Charter School is an RSI school, not a traditional brick and mortar charter school, the repercussions of closing it during the school year are different than usual charter school closures. The District asserts that if an RSI charter school, such as Olney Charter School, should close, the District would have to be prepared to immediately gain control over Olney Charter School's operations and facility during the middle of the school year, and among other things, hire a full complement of staff, review and evaluate student records for approximately 2,000 students, based on current enrollment figures, to make

appropriate placement and programmatic decisions, conduct IEP meetings, determine what student-specific programs would be retained or adjusted and/or what new programs would be implemented and make facility improvements. Unlike RSI charter schools, the District states that in typical charter school closures the charter school is dissolved over time and the students enroll in other schools upon closure.

The District argues that if CAB upholds the nonrenewal decision for Olney Charter School, an RSI charter school, then the District will need to undertake transition operations and activities which would result in whole-school transformation; and it cannot happen in the middle of the school-year. The District asserts that if the transition were to be effectuated mid-school year, it may adversely affect educational opportunities and programming for students. On this basis, the District asserts that it is imperative that the matter be decided by CAB with sufficient time to return the school to District operation which is reflected in the proposed expedited timeline binding CAB to render a decision by the end of the 2019-2020 school year to allow for transition to occur over the summer months.

Olney Charter School argues in opposition of the District's Motion asserting that the Motion is untenable given that the District moved slowly through the nonrenewal proceedings but is now seeking to expedite the process. In support, Olney Charter School argues that their charter expired on June 30, 2015 and the administration of the District recommended nonrenewal in April 2016. However, the District did not initiate nonrenewal proceedings until December 2017. Further, the District did not appoint a Hearing Officer for the matters until December 2018. The Hearing Officer concluded the hearings for the Charter Schools on April 15, 2019, and the District did not vote for about six months thereafter. Olney Charter School opines that the District is familiar with CAB's timing in reviewing appeals and rendering decisions and

asserts that the District controlled the timing of the nonrenewal proceedings before it and could have issued a decision to allow time sufficient for CAB to follow its typical appeal protocol without an expedited schedule.

Olney Charter School contends that, generally, CAB's anticipated timeline from when an appeal is filed until a final order is issued in a nonrenewal proceeding may take a little over a year, and that the District provides no compelling reason for CAB to deviate from its usual practices. Although the District asserts that it is simply seeking to ensure that the proceedings move forward expeditiously through the typical scheduling process for any motion, Olney Charter School argues that it anticipates moving to supplement the record which is not contemplated in the proposed timeline and would further compound the matters to be addressed within an expedited timeline. Olney Charter School takes umbrage with the condensed timeline proposed by the District arguing that it does not permit time sufficient to allow for complete and adequate responses.

In support, Olney Charter School points out that a Motion for Expedited Relief has not been issued in at least one other prior CAB matter, *Khepera CAB 2018-01*. CAB's appointed Hearing Officer denied the school district's motion for expedited relief on the grounds that it had shown "no compelling reason to deviate from the usual efforts by the Charter School Appeal Board to provide a timely and efficient hearing." *Docket No. 2018-01, n.9*.

The District's argument that expedited relief is necessary is seemingly predicated upon the possible implications of a decision by CAB to deny the appeal of Olney Charter School from the nonrenewal decision of the District. The District articulates no clear reasoning, in this Board's opinion, to support granting the relief sought which is grounded on CAB rendering a decision adverse to Olney Charter School.

For example, CAB may grant the appeal of Olney Charter School from the nonrenewal decision of the District which would not result in the potential closing of an RSI charter school during the school year and thus alleviate the District from any purported challenges in immediately gaining control over Olney Charter School's operations and facility; and this potential outcome makes it unnecessary for CAB to bind itself to an expedited schedule. Alternatively, should CAB deny the appeal of Olney Charter School from the nonrenewal decision of the District, which is an outcome upon which the District's Motion is grounded, CAB may certainly act to minimize disruption to students during the course of the school year.

CAB recognizes that the circumstances in this situation are unique in that it involves a situation of first impression for CAB concerning the nonrenewal of an RSI charter school. However, as Olney Charter School asserts, closure of an RSI charter school during a school year would not be substantially different than the closure of a regular, brick and mortar charter school during the school year; and CAB's interest in ensuring minimal disruption to students remains.

CAB has adequately addressed matters involving disruption to students that may be caused by the closure of a charter school during the school year by making an order effective at the end of the school year to allow adequate preparation for the closure. CAB retains the ability to preserve the interest of the District in the event of Olney Charter School's closure by issuing an order that directs the charter school to end school operations to coincide with the end of a school year and allow for transition during summer months. The District has not indicated why such a remedy would not be adequate in this case.

Based on the argument presented by the parties, CAB agrees with Olney Charter School that the District does not raise a compelling reason to deviate from CAB's usual practices and failed to present evidence that supports granting of the Motion for Expedited Relief by CAB. As

asserted by the District, the Administrative Code, Pa. R.A.P. 105(a), provides for liberal interpretation of the rules of appellate procedure to secure a just, speedy, and inexpensive determination of the issues presented. CAB will exercise its diligence to promptly move the matter forward but will undertake its usual efforts to provide for the timely and efficient processing of this appeal.

Absent a compelling reason, and without relief sought that is grounded in more than mere possibilities and capable of being otherwise addressed, the Board is unpersuaded to expedite its schedule and order that a particular schedule be developed. Accordingly, Petitioner's Motion for Expedited Relief is denied; and CAB enters the following:

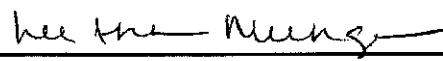
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ORDER

AND NOW, this 12 day of March, 2020, based upon the foregoing and the vote of this Board³, the Motion for Expedited Relief of the School District of Philadelphia is hereby **DENIED**.

For the State Charter School Appeal Board



Lee Ann Munger
Vice Chairperson

For Petitioner: Kevin M. McKenna, Esquire
Mark G. Morford, Esquire
Christine E. Reilly, Esquire
MCKENNA SNYDER LLC
350 Eagleview Boulevard, Suite 100
Exton, PA 19341

For Respondent: Allison Peterson, Esquire
Paul Cianci, Esquire
Levin Legal Group, P.C.
1301 Mansions Mill Business Park
1800 Byberry Road
Huntingdon Valley, PA 19006

³ At the Board's meeting on January 14, 2020, the Board voted 5-0 to deny the Motion for Expedited Relief with Vice Chair Munger, and Board Members, Cook, Miller, Peri and Yanyanin voting.

For Respondent: Allison Peterson, Esquire
Paul Cianci, Esquire
Levin Legal Group, P.C.
1301 Mansions Mill Business Park
1800 Byberry Road
Huntingdon Valley, PA 19001

For Proposed

Petitioner-Intervenor: Kenneth I. Trujillo, Esquire
Wendy Lappin Barragree, Esquire
300 Conshohocken State Road, Ste. 570
Conshohocken, PA 19428

John S. Stapleton, Esquire
3000 Atrium Way, Suite 200
Mount Laurel, NJ 08054

Date of Mailing: March 13, 2020